

आयकर अपीलीय अधीकरण, न्यायपीठ – “A” कोलकाता,
*IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH “A” KOLKATA*

Before **Shri J.Sudhakar Reddy, Accountant Member** and
Shri S.S.Godara, Judicial Member

ITA No.1337/Kol/2017
Assessment Year:2012-13

Parvati Dealers Pvt. Ltd., 128, Salkia School Road Ground Floor, Opp. Hooghly Dock, Howrah-711106 [PAN No.AAFCP 8300 C]	बनाम/ V/s.	Income Tax Officer, Ward-13(3), 110, Shanti Palli, Opposite Ruby Hospital, Kasba, E.M. By-pass, Kolkata- 700017
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

अपीलार्थी की ओर से/By Appellant	None
प्रत्यर्थी की ओर से/By Respondent	Shri A.K. Nayak, CIT-DR
सुनवाई की तारीख/Date of Hearing	12-12-2018
घोषणा की तारीख/Date of Pronouncement	26-12-2018

आदेश /O R D E R

PER S.S.Godara, Judicial Member:-

This assessee's appeal for assessment year 2012-13 arises against the Commissioner of Income Tax (Appeals)-5, Kolkata's order dated 25.10.2016 passed in case No.256/CIT(A)-5/Wd-13(3)/15-16, involving proceedings u/s 143(3) of the Income Tax Act, 1961; in short 'the Act'.

Case called twice. None appears at assessee's behest despite the fact that the registry has already sent an RPAD notice dated 01.11.2018. We therefore take up the main appeal itself for adjudication in assessee's absence.

2. The assessee's twin substantive grounds pleaded in the instant appeal challenge both the lower authorities' action treating its share capital of ₹26,24,70,000/- to be unexplained cash credits and followed by sec. 14A r.w.s. Rule 8D disallowance of

₹1,64,744/-; respectively. It transpires during the course of hearing that the CIT(A) has passed his lower appellate order ex parte after noting that postal authorities had returned the relevant hearing notice as remarked “no such company in this address hence not known”. Learned Departmental Representative vehemently contends during the course of hearing that CIT(A) has rightly affirmed assessment findings making the above two addition(s) in these facts and circumstances. We find no reason to concur with the Revenue’s above arguments. The fact remains that the assessee’s address has remained same throughout from assessment till date. The Assessing Officer had successfully served all the scrutiny notices during the course of assessment. We therefore conclude that the assessee has not been properly served relevant hearing notice in lower appellate proceedings. Coupled with this, we find that there is no detailed discussion at all in the CIT(A)’s order regarding two issues as contemplated u/s 250(6) of the Act. We therefore restore assessee’s grievance back to the CIT(A) for afresh adjudication as per law after affording three effective opportunities of hearing subject to payment of ₹10,000/- as costs.

3. This assessee’s appeal is allowed for statistical purposes in above terms.

Order pronounced in open court on 26/12/2018

Sd/-

(लेखा सदस्य)

(J.Sudhakar Reddy)

Accountant Member

*Dkp-Sr.PS

Sd/-

(न्यायिक सदस्य)

(S.S.Godara)

Judicial Member

दिनांक:- 26/12/2018 कोलकाता / Kolkata

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. अपीलार्थी/Appellant-Parvati Dealers Pvt. Ltd., 128, Salkia School Road, Ground Floor, Opp. Hooghly Dock, Howrah-711106
2. प्रत्यर्थी/Respondent-ITO, Ward-13(3), 110, Shanti Palli, OP.Ruby Hospital, Kasba,E.M. By-pass, Kolkata-107
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण कोलकाता/DR, ITAT, Kolkata
6. गार्ड फाइल / Guard file.

/True Copy/

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
कोलकाता ।